

What shall we know for trading on the Warsaw Stock Exchange

What types of listing are possible under the Polish law?

In case the Bulgarian company is public it could register its shares for trading on the Polish market – in the most cases – after approval of a prospectus for the purposes of the dual listing by the Bulgarian Financial Supervision Commission.

In case the Bulgarian company is not public, it could get an approval of the prospectus directly from the Polish regulator.

With capital increase through issuance of rights that should be registered by the Polish Depository (KDPW) it is possible to attract new investors on the Warsaw Stock Exchange at the stage of initial public offering; or without capital increase – through the registration of the shares for trading on WSE.

Possibilities:

- (i) The Regulated market has two segments – main market and parallel market – trading in the same way, as the difference is usually not noticed by investors. Major investors (i.e. investment funds, pension funds) usually trade with shares that are listed on the Regulated market.
- (ii) New connect – non regulated market designated mostly for small and medium companies.

Main differences between Polish and Bulgarian law for tender offers

Tender offer in Poland, as well as in Bulgaria may be announced to acquire large portfolios of shares. However, there are differences in the thresholds by which the obligation or right to announce tender offer is obligatory:

- Within a period shorter than 60 days after acquisition of 10 % of the votes (and namely: the number of shares with the right of voting, votes cannot be bought in other way than by buying of shares), respectively – within a period less than 12 months as of acquisition of 5 % of the votes by a shareholder, who acquires at least 33 % of the votes at the time of acquisition.
- Crossing the threshold of 33 % of the votes may be achieved through a tender offer for acquisition of 66 % of the votes.
- Crossing the threshold of 66 % of the votes may be achieved through a tender offer for acquisition of 100 % of the votes.

Additional regulations are possible in each specific situation (i.e. crossing the threshold by specific events – usually requiring subsequent announcement of the tender offer or by selling shares to get below the required threshold).

Main issues to be negotiated with the investment bank prior to the listing

In practice, there are a large number of issues to be negotiated at the different stages of the tender offer. These are the basic contractual documents – Mandate Letter, subsequently Underwriting Agreement, it is possible also Stabilization Agreement, etc. In case through the procedure of selection of the investment bank and negotiating the initial documentation (Mandate letter) the offering party is not represented by experienced and acquainted with the local requirement experts it is possible the signed documentation to include new clauses that mean serious obligations without a guarantee for the same on behalf of the intermediary.

Also, all basic elements of the offering, including initially price range of the securities, size of the offering, composition of the obligations of the investment bank, such as Lock up Agreement of the current strategic shareholders, etc. are necessary to be agreed.

Since duty of the bank is to place securities on the market, every important element of the offering must be agreed, as well as the behavior of the company, PR policy, etc. It is important the fact that the interests of the investment bank and the company are not always the same. The investment bank is not a legal advisor of the company.

What is the difference in disclosure requirements for companies listed on the main market in comparison to New connect?

New connect is slightly less strict and the requirements are more relaxed in comparison with the main market. Disclosure requirements in Poland are quite extensive and include every event which may have a substantial impact on the price of the securities, including also several number of events (a list of such events is quite extensive).

What happens in case of abuse with disclosure of information? Who will sanction the failure to notify? How can the other investors react to misrepresentation of acquisition thresholds by an investor?

Failure to notify is generally punished by the KNF with a fine. In some cases it may be a misdemeanor. Other investors do not have special rights, unless the misrepresentation has been done in prospectus or the attachments thereto. Nevertheless, the other investors, in case they suffered damage, may sue for those damages – what does not seem to be very likely to recover any damages.

Will the investors obtain most comprehensive information in case of crossing a threshold for tender offer? Here or there the investors could find information?

For the tender offer must be well notified the Polish Financial Supervision Authority (KNF) and the Warsaw Stock Exchange in advance (14 business days). KNF may demand changes in the documentation of the tender offer and to delay/ stop the tender offer. The content of the announcement for the tender offer is quite extensive and KNF may review the documentation in advance.

If the management members are trading with shares of the company which they manage, what are the procedure and the grounds for notification of the trading on WSE?

The management members must disclose their transactions. They cannot trade during certain periods or if they have access to confidential information which has not been disclosed to the public.

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